

INVITATION FOR BIDS

GREEN HOUSE GAS EMISSIONS

FOR THE

CALIFORNIA ACTION REGISTRY



IFB #600-03-601
State of California
California Energy Commission
January 2004

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I. Introduction

BACKGROUND

Established by state legislation, the California Climate Action Registry (Registry) is a nonprofit, public benefit corporation that accepts California and national reports on greenhouse gas emissions (GHG) from companies and other entities with operations in California. The California Energy Commission (Commission), as a participant in the Registry, will report the Commission's greenhouse gas emissions inventory to the Registry. The Commission must utilize the services of a state and Registry-approved certifier.

WHAT IS THE PURPOSE OF THIS IFB?

The purpose of this Invitation for Bids (IFB) is to select a bidder that has been approved by the State of California and Registry to evaluate the Commission's Annual GHG Emissions Inventory reported to the Registry. This contract is expected to provide the Commission with an evaluation that will permit it to participate as a member of the California Climate Action Registry. The Commission's GHG emissions are produced from purchased electricity, heating and cooling to power to the Commission building and from its six vehicles

HOW IS THIS IFB ORGANIZED?

This Invitation for Bids (IFB) is organized into the following six sections:

- Section I Introduction
- Section II Work Statement and Deliverables
- Section III Bid Format and Required Documents
- Section IV Administration
- Section V Evaluation
- Section VI Forms - Required to be completed and returned

HOW MUCH FUNDING IS AVAILABLE?

There is a maximum of up to \$30,000 available for the contract resulting from this IFB. Of the maximum amount, \$10,000 is immediately available to support the contract. The remaining \$20,000 is available contingent upon approval of funding by the Governor for State fiscal years 2004/05 (\$10,000) and 2005/06 (\$10,000). This is a lump sum annual cost reimbursement contract with a ceiling on the total contract amount. The Commission reserves the right to increase or decrease the amount of any contract as needed to meet budget or program requirements.

I. INTRODUCTION, CONTINUED

WHAT ARE THE KEY ACTIVITIES AND DATES?

Key activities and times for this IFB are presented below. This is a tentative schedule, please call the Contracts Office to confirm dates.

ACTIVITY	ACTION DATE
IFB Release	January 16, 2004
Deadline to Submit Bids	February 9, 2004
Public Bid Opening	February 10, 2004, 1:30 p.m.
Completion of Commission COI Determination	February 10, 2004 to February 20, 2004*
Notice of Proposed Award	February 20, 2004
Commission Business Meeting	March 17, 2004
Contract Start Date	April 1, 2004
Complete 2002 Inventory Certification	May 28, 2004
Complete 2003 Inventory Certification	Fourth Qtr. 2004
Complete 2004 Inventory Certification	Fourth Qtr. 2005
Contract Termination Date	March 30, 2006

* Completion of the Commission Conflict of Interest (COI) determination may be delayed if more information is required of the bidder to make a final determination. If the COI determination is delayed, subsequent due dates will be extended by an amount of time comparable to the delay. Conflict of Interest is defined in the Commission's Request for Applications to Qualify as Certifier for California Climate Action Registry (Registry) Conflict of Interest Policy, February 2003 as defined as a situation in which, because of other activities or relationships with other persons or organizations, a person or firm is unable to or potentially unable to render an impartial certification opinion of a potential client's greenhouse gas emissions, or the person or firm's objectivity in performing certification activities is or might be otherwise compromised..

HOW DO I RESPOND TO THIS IFB?

Responses to this solicitation shall be in the form of Technical Qualifications and Cost Bid according to the format described in Section III. The Technical Qualifications shall document the Bidder's experience, qualifications, project organization and approach to perform the tasks described in the Work Statement found in Section II, and the Cost Bid shall detail the Bidder's budget to perform such tasks.

HOW DO I DELIVER MY BID?

A Bidder may deliver a Bid by:

- U. S. Mail;
- In person; or
- Messenger service.

I. INTRODUCTION, CONTINUED

All Bids must be **delivered** to the Commission's Contracts Office *no later than 5:00 p.m., February 9, 2004*. If a Bidder chooses either of the last two methods, delivery of all copies prior to 5:00 p.m. on February 9, 2004, must be made during normal business hours of 8:00 a.m. – 5:00 p.m., Monday through Friday. Postmarked, e-mail or facsimile (FAX) transmissions **WILL NOT** be accepted in whole or in part under any circumstances. In accordance with Public Contract Code Section 19341, no bid shall be considered which has not been received at the place and prior to the closing time stated in the IFB. *There are no exceptions to this law!*

CONFLICT OF INTEREST AND AWARD OF CONTRACT

In the event there is a conflict of interest or disciplinary action against the bidder by the Registry, the Commission reserves the right to award the contract to the next lowest bidder. The Commission also reserves the right to review the conflict of interest and any disciplinary actions by the Registry at the end of the first and second year of the contract. In the event there is a conflict of interest or disciplinary action, the Commission reserves the right to award the contract to the next lowest bidder.

A contract shall be awarded to the lowest responsible and responsive bidder who has certified they meet all the requirements of the work statement and followed the procedures for submitting bids. The sealed cost bid and qualifications will be publicly opened and read. The bid containing the lowest total cost quoted will be awarded the contract. A notice of proposed award will be sent to each bidder and will be posted in the Commission Contracts Office for five (5) working days.

PUBLIC BID OPENING?

The Commission will conduct a public bid opening to be held:

February 10, 2004, 1:30 p.m.
California Energy Commission
Contracts Office, First Floor
1516 Ninth Street
Sacramento, CA 95814

WHO DO I CONTACT?

Questions or clarifications about this IFB should be directed to:

ELIZABETH STONE, CONTRACT OFFICER
California Energy Commission
1516 Ninth Street, MS-18
Sacramento, California 95814
Telephone: (916) 654-5125
FAX: (916) 654-4423

I. INTRODUCTION, CONTINUED

This IFB is available through the Commission's Web Site at:
www.energy.ca.gov/contracts. Copies may be obtained by writing or calling:

California Energy Commission
1516 Ninth Street, MS-18
Sacramento, California 95814
Telephone: (916) 654-4392
FAX: (916) 654-4423

Verbal Communication

Any verbal communication with a Commission employee concerning this IFB is not binding on the State or the Commission and shall in no way alter a specification, term, or condition of the IFB.

WHAT ARE MY RESPONSIBILITIES FOR SUBMITTING A BID?

Bidders must take the responsibility to:

- Carefully read this entire IFB
- Ask the appropriate questions in a timely manner
- Submit all required responses in a complete manner by the required date and time
- Make sure that all procedures and requirements of the IFB are followed and appropriately addressed
- Carefully reread the entire IFB before submitting a bid.

II. Work Statement and Deliverables

ABOUT THIS SECTION

This section describes the contract work statement including the tasks the winning bidder (“Contractor”) will be asked to perform under the direction of the Commission Contract Manager.

BACKGROUND

Established by state legislation, the California Climate Action Registry (Registry) is a nonprofit, public benefit corporation that accepts California and national reports on greenhouse gas emissions (GHG) from companies and other entities with operations in California. The Commission, as a participant in the Registry, will report the Commission’s greenhouse gas emissions inventory to the Registry. The Commission must utilize the services of a state and Registry-approved certifier.

CAN I USE SUB-CONTRACTORS?

No. Subcontractors are not allowed under the requirements of this IFB. All work must be performed by the bidder who is certified by the Registry.

WILL TRAVEL BE REQUIRED?

Yes. Travel expenses incurred will be reimbursed at no more than the State per diem rates for non-represented State employees, and must be included in the Bidder’s cost. Receipts for lodging are required and subject to the Commission Contract Manager’s approval.

STATEMENT OF WORK

The contractor shall perform the following tasks:

TASK 1.

Conduct an on-site visit to the Commission’s facility for the first year of the contracted certification services. On-site visits will not be required in the second and third year if the Commission retains the same Contractor. The Commission’s facilities are located in Sacramento, as described below. The Contractor shall also perform off-site analysis to:

- a. Evaluate whether the Commission has a GHG emissions reporting program consistent with the Registry’s General Reporting Protocol.
- b. Evaluate the reasonableness of the data the Commission has submitted to the Registry for calendar 2002 in the first year of the contract, calendar year 2003 in the second year of the contract, and calendar year 2004 for the third year of the contract. against the Registry’s General Reporting Protocol.

II. WORK STATEMENT AND DELIVERABLES, CONTINUED

The Contractor will follow the steps outlined in the General Reporting Protocol and discuss the reliability and validity of the numbers, along with the methodologies used to convert the usage data to associated greenhouse gas emissions. Specifically, the contractor shall:

Evaluate whether all the appropriate sources of emissions are included in the Commission's reported emissions sources. This will require the Contractor to review documentation on organizational boundaries to determine that all applicable emission sources are included.

Estimate GHG emission for all six Commission vehicles.

For a sample of data, estimate the emissions resulting from the Commission's electricity usage for the year 2002.

For a sample of data, estimate the emissions resulting from the Commission's inflow of chilled water and steam to the building.

TASK 2A

Prepare and submit to the Commission a certification report and certification opinion that will also be filed with the Registry, which contains the evaluations performed in Task 1 above. If the Certifier does not identify any material misstatements, the Commission will recognize and accept the certification report under the contract as the final report and should include the following elements:

- ☐ The scope of the certification process undertaken;
- ☐ The standard used to certify emissions;
- ☐ A description of the certification activities;
- ☐ A list of emissions sources identified;
- ☐ A description of the sampling techniques and risk assessment methodologies employed for each source;
- ☐ An evaluation of whether the participant's Emission Report is in compliance with the Registry's General Reporting Protocol;
- ☐ A comparison of the Commission's overall emission estimates with the Contractor's overall emission estimates;
- ☐ A list of material misstatements, if any, and
- ☐ A list of immaterial misstatements, if any;

II. WORK STATEMENT AND DELIVERABLES, CONTINUED

- ☐ A general conclusion to be reflected in the Certification Opinion forwarded to the Registry.

The Contractor shall provide four (4) copies of the report, in a format to be determined by the Commission Contract Manager.

At the conclusion of the contract, the Contractor shall provide a brief summary of the report to the Commission Contract Manager. The report shall be prepared in language easily understood by the public or laypersons with a limited technical background.

TASK 2B

If the Contractor is unable to certify the Commission's GHG emissions inventory in Task 2A, the Commission will be given 30 days to correct any deficiencies in the emissions inventory. No later than 45 days after the completion of Task 2A, the Contractor shall repeat elements of Tasks 1 and Task 2A necessary to evaluate the corrections to the deficiencies, however, no on-site visit will be required. The second certification report will be accepted as the final report.

TASK 3

The Contractor shall meet with the Commission by conference call to present the findings, conclusions, and opinions of the certification report.

TASK 4

Complete the certification form in the Registry's Climate Action Registry Reporting Online Tool (CARROT).

ENERGY COMMISSION SITE AND GHG EMISSIONS INVENTORY DESCRIPTION

Organization

The following information is provided to the potential bidders to allow them to more accurately estimate the hours required for certification and make a more fully informed bid.

The Commission is the state's primary energy policy and planning agency. Created by the Legislature in 1974 and located in Sacramento California, the Commission has several responsibilities:

- Forecasting future energy needs and keeping historical energy data;
- Licensing thermal power plants 50 megawatts or larger;
- Promoting energy efficiency through appliance and building standards;
- Developing energy technologies and supporting renewable energy;

II. WORK STATEMENT AND DELIVERABLES, CONTINUED

- Planning for and directing state response to energy emergency;
- Oversee funding programs that support public interest energy research;
- Advance energy science and technology through research, development and demonstration; and,
- Provide market support to existing, new and emerging renewable technologies.

Geographic Boundary

The Commission is located and operates entirely within the State of California. The Commission will report its California GHG emissions to the Registry.

The number and locations of facilities and operations

The Commission is located at 1516 Ninth Street in Sacramento, California, in a four-story building. Approximately 400 employees work in this building which was constructed in 1980-1982 and covers approximately 145,000 square feet. For calendar years 2002 and 2003, Commission staff also worked in the Bonderson building on 1515 Ninth Street, where approximately 16,000 square feet were leased by the Energy Commission. Both buildings are owned by the Department of General Services (DGS) with whom the Commission holds a lease for the Commission headquarters, and terminated the lease as of December 31, 2003 for the Bonderson building.

The greenhouse gases reported in the participant's emission report

The Commission will report to the Registry only carbon dioxide (CO₂) for the calendar year 2002. The utilities for the Commission building are not included in the lease and emissions resulting from utilities usage must be reported as certified emissions to the Registry. The utilities for the Bonderson building are included in the lease and the emissions associated with the utility usage will not be reported to the Registry.

Sources of Direct CO₂ Emissions

The Commission owns and operates six vehicles.

Sources of Indirect CO₂ Emissions

The Commission imported electricity, heating (in the form of steam) and cooling (chilled water) for the Commission buildings.

Organization of emissions data

The GHG emissions will be reported in the CARROT as well as in the certification report. The Certification report follows the steps outlined in the General Reporting Protocol and discusses

II. WORK STATEMENT AND DELIVERABLES, CONTINUED

the reliability and validity of the numbers, along with the methodologies used to convert the usage data to associated greenhouse gas emissions.

Vehicle Emissions

For the six Commission vehicles, the Commission has records of the annual mileage for each car. This is converted into fuel usage by utilizing the fuel-economy standards provided by the United States Environmental Protection Agency on <http://www.fueleconomy.gov/feg>. The fuel usage is then multiplied by the emission factors to calculate CO₂ emissions.

Electricity

DGS provided the Commission with monthly electricity usage for the year 2002 in kWh. To estimate the GHG emissions associated with electricity, the standard GHG emission factors for California are used (Table 5-1 in the General Reporting Protocol (GRP)).

Cooling

DGS provided the Commission with meter readings for the inflow of chilled water (gallons-per-minute) to the building. The data that is reported in approximately 5 minute intervals has been converted to annual usage. From this, the total gallons of chilled water usage are converted into British Thermal Units (BTUs). With information from DGS on the plants chillers, CO₂ emissions are calculated using the methodologies provided in the GRP.

Heating

DGS provided the Commission with meter readings for the inflow of steam (lbs/hour) for heating purposes. The annual steam usage is calculated from this and converted to BTUs. The General Plant uses natural gas boilers to produce the steam and the natural gas emission factors for stationary combustion (Table 7-2) are used to calculate the associated emissions.

The meters for both heating and cooling are located in the basement of the Commission building. In the basement there are several pumps used for distributing the chilled water and steam. Since they all run on electricity their associated emission are covered by the electricity usage.

The Commission's total CO₂ emissions are approximately 600 tons for the year 2002.

DELIVERABLES AND DUE DATES

Task 1

Evaluate the Commission's program and data

April 19, 2004

Task 2A

Submit opinion and report certifications

May 3, 2004

Task 2B

Repeat, if necessary, Task 1 and Task 2A

July 6, 2004

II. WORK STATEMENT AND DELIVERABLES, CONTINUED

Task 3

Conference call to discuss certification
Or if Task 2B is included

May 17, 2004
July 19, 2004

Task 4

Complete certification form on Registry's CARROT
Or if Task 2B is included

May 28, 2004
July 29, 2004

III. Bid Format and Required Documents

ABOUT THIS SECTION

This section contains the detailed technical and mandatory bid format requirements. The format is prescribed to enable the State to evaluate each proposal uniformly and fairly. Format instructions must be adhered to, all requirements and questions in the IFB must be responded to, and all requested data must be supplied.

HOW MANY COPIES OF MY BID DO I SUBMIT?

Mail or deliver an **original Bid and 4 copies** to the address given in Section IV. Bidders must submit the technical qualifications and cost bids in two separately sealed envelopes. Volume 1 must be labeled Volume 1, Technical Qualifications, and Volume 2, Cost Bid, for Invitation for Bid #600-03-601.

WHAT IS THE REQUIRED FORMAT?

Volume 1 – Technical Qualifications

The following topics constitute the mandatory order of presentation for a Bid. Two-sided copying is preferred:

Section 1—Administrative Response

- Required Forms
 - ✓ Contractor Status Form, Attachment 1
 - ✓ Contractor Certification Clauses, Attachment 2
 - ✓ Bidder Certification Form, Exhibit A

Section 2—Qualifications

- Technical Qualifications
- Description of Organization
- Contractor Qualifications
- Conflict of Interest, Exhibit B
- Staff Experience (include Résumés)
- References
-

Volume 2 – Cost

- Cost Bid Form, Exhibit C

III. Bid Format and Required Documents, Continued

VOLUME 1 – SECTION 1, ADMINISTRATIVE RESPONSE

REQUIRED ADMINISTRATIVE FORMS

Every Bidder must complete and include the following forms with their bid:

- Contractor Status Form, Attachment 1
- Contractor Certification Clauses, Attachment 2
- Bidder Certification Form, Exhibit A

VOLUME 1 – SECTION 2, TECHNICAL QUALIFICATIONS

Volume 1, Section 2, shall summarize the Bidder's overall approach in completing the tasks outlined in the Work Statement, highlighting any outstanding features and qualifications relevant to performing the required work.

All of the work will involve coordination with the Commission's Headquarters in Sacramento. Describe where your company staff will be headquartered. Describe how you propose to minimize costs to the State while providing technical work under this contract.

DESCRIPTION OF ORGANIZATION AND QUALIFICATIONS

Provide an organizational chart that shows the Contractor and the staff members. Identify the primary persons responsible for the interface between the Contractor and the Commission. Include type of organization, composition, functions to be performed by employees of the Bidder, and how they pertain to this contract.

Describe the bidder's qualifications and clearly list the experience related to tasks in the Work Statement. Give examples of the company's experience in performing work within the past 48 months for each of the task areas. Explain the relevance of this prior work to the Work Statement and the proposed contract.

Timeliness

Bidders shall describe their ability to support contract requirements in a timely manner. This includes showing how the Contractor will ensure efficient and timely completion of work tasks. All work-related costs and delays to be incurred by company offices outside of California must be identified. If more than one California office will be involved in any aspect of this contract, those office and staff resources must be identified. If work is to be performed by offices outside of California, explain its impact on administrative and total project cost and timeliness.

Unless it is clearly demonstrated to have no adverse effect on the cost to the state in terms of efficiency or additional expense, work incurred outside of California will result in a lower score for this category. Also describe the Contractor's experience in developing cost effective methods for handling contract management assignments (i.e., how the task assignment and follow-up

III. Bid Format and Required Documents, Continued

processes can be streamlined to allow for more efficient and expeditious handling of all work undertaken through this contract).

BIDDER CONFLICT OF INTEREST

The Contractor shall submit to the Commission information necessary to comply with the Conflict of Interest requirements as outlined in Exhibit B of the Commission's Request for Applications to Qualify as Certifier for California Climate Action Registry (Registry) Conflict of Interest Policy, February 2003.

Although a Bidder will not be automatically disqualified by reason of work performed, or for financial interests in the firms who may be affected by action of the Commission, we reserve the right to consider the nature, extent, and recency of such work. By reason of the foregoing, the Commission reserves the right to reject any or all bids that present a true or apparent conflict of interest.

STAFF EXPERIENCE

Bidders shall describe all technical staff that will be assigned to this project. Clearly list what staff members will work on the tasks outlined in the Work Statement. Describe how all staff members are qualified to perform the proposed work, showing previous relevant work experience.

Provide the title or classification of each member assigned to work on this project, and specify his/her roles and functions that will be used for this project. Provide resumes for each member who will be working on this project including current job classification, education, and professional experience, and areas of responsibility.

REFERENCES

Bidders must provide a list of at least three (3) clients or employers who have received similar services from the Bidder or the Bidder's personnel, during the last five (5) years by completing Attachment 3, "Customer References." Such services should be of comparable complexity to the services requested in this IFB. Bidders may submit the same references and experience submitted to qualify as a state-approved certifier; however, do not submit any confidential information.

All references must include the name and telephone number of a contact person with the contacting organization. These references, as well as others, may be contacted by the Commission when reviewing the submitted proposals. Final evaluations filed with the State on Bidder's past contract performance may be reviewed; therefore, the Bidder may wish to discuss any disagreements he/she has with those evaluations.

III. Bid Format and Required Documents, Continued

VOLUME 2—COST

- Bidders shall complete Exhibit C, “Cost Bid Form” and shall submit this in a separate sealed envelope as Volume 2.

The IFB response shall state the bidder’s costs for carrying out the project as outlined during the period of the contract.

The term of the contract resulting from this IFB will be from April 1, 2004 through March 30, 2006. The rates quoted in the bid will become a part of the final contract and will not be changed during the term of the contract. The entire term of the contract and projected rate increases must be considered when preparing the budget.

In the event a different bidder is awarded the contract in the second or third year, the rates quoted in the cost bid for the second or third year will become a part of the final contract and will not be changed during the term of the contract.

The budget must include the cost per task as detailed in the work statement. Rates must include travel or per diem expenses incurred during the performance of the contract resulting from this IFB.

Bidders should note that in addition to names and hourly rates presented in the cost bid, the technical qualifications must contain the resumes of all individuals. Individual names, corresponding hourly rates, and proposed hours will be struck from the cost bid for resumes missing in the technical qualifications.

CONTRACT PAYMENTS

Payment(s) for this contract will be made after the completion each annual certification. The annual payments of no more than \$10,000 per year will be paid in one lump sum and upon satisfactory completion and submission of a deliverable. In computing the amount of any payment, the Commission Contract Manager shall determine, after receiving an undisputed invoice, what the Contractor has earned during the period for which payment is being made, based on deliverables received and/or satisfactory services rendered. In consideration for the contract work, the Commission may make monthly payments but only on the following conditions:

1. No payment in advance of services rendered, and not more frequently than one payment a month.
2. Receipt of a deliverable.
3. Approval of the deliverable by the Commission Contract Manager.

IV. Administration

ARE THERE IMPORTANT ADMINISTRATIVE DETAILS I SHOULD KNOW?

Disabled Veteran Enterprises

This solicitation is exempt from the California Disabled Veteran Business Enterprises (DVBE) program requirements.

Small Business Preference

Bidders claiming the small business preference shall meet Government Code Section 14835, et.seq., or refer to www.pd.dgs.ca.gov.

CAN THE COMMISSION CANCEL THIS IFB?

Yes, if it is in the State's best interest, the Commission reserves the right to do any of the following:

- Cancel this IFB;
- Amend this IFB as needed; or
- Reject any or all Proposals received in response to this IFB

CAN THE COMMISSION AMEND THIS IFB?

If the IFB must be amended, the Commission will mail a formal written addendum to all parties who requested the IFB and will also post it on the Commission's Web Site <www.energy.ca.gov/contracts> and Department of General Services' Web Site <www.dgs.ca.gov/cscr>.

Errors

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the IFB, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Clarifications will be given by written notice of all parties who requested the IFB, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

WHAT ARE THE CONTRACT REQUIREMENTS?

It is the Bidder's responsibility to read and understand the sample contract terms and conditions, Attachment B.

WHAT IF I DECIDE TO MODIFY OR WITHDRAW MY BID?

A Bidder may, by letter to the Contact Person at the Commission, withdraw or modify a submitted Bid before February 9, 2004, at 5:00 p.m. Bids cannot be changed after that date and

IV. Administrative Requirements, Continued

time. A Bidder cannot withdraw after that date for bids without the concurrence of the Commission. A bid cannot be “timed” to expire on a specific date. For example, a statement such as the following is nonresponsive to the IFB: “This proposal and the cost estimate are valid for 60 days.”

CAN MY PROPOSAL CONTAIN CONFIDENTIAL INFORMATION?

No. The Commission will not accept or retain any bids that are marked confidential in their entirety and Bidders are strongly discouraged from requesting confidential treatment for any of the information contained in a submittal.

WHAT HAPPENS TO MY DOCUMENTS?

On the Notice of Proposed Award date all bids and related material, submitted in response to this IFB become a part of the public record and are available for public disclosure, under the California Public Records Act (Government Code Section 6250 et seq.). Bid packages may be returned only at the bidder’s expense.

ON WHAT GROUNDS WOULD MY BID BE REJECTED?

A Bid shall be rejected if:

- It is received after the exact time and date set for receipt of Proposal’s pursuant to Public Contract Code, Section 10344.
- It is lacking certification status with the California Climate Action Registry (Registry)
- It is lacking a properly executed Certification Clauses, Attachment 2.
- It contains false or intentionally misleading statements or references that do not support an attribute or condition contended by the Bidder.
- The Bid is intended to erroneously and fallaciously mislead the State in its evaluation of the Bid and the attribute, condition, or capability is a requirement of this IFB.
- There is a conflict of interest as contained in Public Contract Code Sections 10410, 10411 and/or 10365.5.
- If any portion of the technical qualifications or cost bid is marked or stamped “Confidential”.

A Bid may be rejected if:

- It is not prepared in the mandatory format described.
- It is unsigned.
- The firm or individual has submitted multiple proposals for each task.
- It does not literally comply or contains caveats that conflict with the IFB and the variation or deviation is not material, or it is otherwise nonresponsive.
- The Commission may waive any immaterial defect or deviation contained in a Bidder’s proposal. The Commission’s waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

IV. Administrative Requirements, Continued

WHAT ARE THE PROTEST PROCEDURES?

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Commission cancels the IFB, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code Section 10345.
- During the five working days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the Department of General Services (DGS), Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, CA 95605 and the Commission Contracts Office.
- Within five days after filing the initial protest, the protesting Bidder must file with the DGS and the Commission Contracts Office a full and complete written statement specifying the grounds for the protest. It is suggested that you submit any protest by certified or registered mail.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Commission for the DGS hearing officer consideration.

V. Evaluation

ABOUT THIS SECTION

This section explains how bids will be evaluated. A Bidder's bid will be evaluated based on its response to all information requested in this IFB.

HOW WILL MY BID BE EVALUATED?

At the time of bid opening, each bid will be checked for the presence or absence of required information in conformance with the submission requirements of this IFB. The Commission will review each bid to determine its responsiveness to the published requirements, and conflict of interest as referenced in the California Climate Action Registry, Conflict of Interest Policy, dated February 2003.

The contract will be awarded to the Bidder who met the minimum technical qualifications and administrative requirements and one who has the lowest responsive responsible bid when the Small Business preference (if applicable) is applied and there is no conflict of interest.

DO SMALL BUSINESSES GET EXTRA POINTS?

Yes, each Bidder who is a State certified small business will receive a preference (extra points) of five percent of the lowest cost or price offered by the lowest responsive responsible Bidder who is not a certified small business.

EXHIBIT A

BIDDER'S CERTIFICATION FORM

Invitation for Bid 600-03-601
Green House Gas Emissions

Instructions

Complete and submit this form in Volume 1, Section 1 of your bid.

Bidder:

Name of Firm: _____

Headquarters

Address: _____

Contact Person: _____

Phone Number: _____

Certification:

In order to submit a bid, the firm must provide all of the services in Section II, Work Statement and Deliverables, and meet all of the qualifications listed in Sections II and III. To verify that the bidder is so eligible, an authorized representative of the bidding firm must sign and date the following certification.

“The undersigned hereby certifies that

(Name of firm)

fully meets the standards set forth in this IFB.”

Authorized Representative (print or type)

Signature

Title

Date

EXHIBIT B

EVALUATION OF CONFLICT OF INTEREST

To the best of my knowledge, I _____ (*Authorized Signature*) attest that the information provided in support of this evaluation is true and complete and that I have complied with the Energy Commission's current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers.

<i>Certifier Firm Name (Printed)</i>	<i>Registry Participant Name (Organization to be certified)</i>
<i>Printed Name and Title of Person Signing</i>	
<i>Contact Name and Title</i>	
<i>Contact Phone</i>	<i>Date</i>

At a minimum, all certifiers should answer the following questions as part of their evaluation of conflict of interest (COI). Please provide supporting documentation as necessary.

1. Risk of COI is High ____ Medium ____ Low ____
2. Please provide an organizational chart and brief description of the Registry participant and any related entities (e.g., parent companies, affiliates, subsidiaries).
3. Has your firm previously provided certification services for this participant? Yes or No.
If yes, list the years in which certification services were provided.
4. Has your firm or any related entity engaged in any noncertification services of any nature with the participant either within or outside California during the previous three years? Yes or No. If no, skip questions 4 through 9 and go to question 10.
5. Nature of the Work Performed and Related Services
 - a. What was the nature of the work performed?
 - b. Is the work, that may represent a potential COI, similar to the type of work performed during certification? e.g., auditing, energy efficiency, renewable energy, or other work with implications for greenhouse gas (GHG) emissions or accounting of GHG emissions.
6. Past, Present, and/or Future Relationship(s) (\$)
 - a. When did/will the certifier perform the work for the Registry participant or related entity?
 - b. Is work currently being performed for the Registry participant or related entity? And if so, what work?
 - c. How much work was performed for the Registry participant in the last three years (in dollars and/or percentage of company revenue/gross)?
 - d. Does the certifier currently have any contracts or other arrangements to perform work for the Registry participant or related entity?

- e. What type of organizational relationships are envisioned (i.e., will parent, affiliates, subsidiaries, sister companies be involved)?
 - f. How much GHG-related work has the certifier performed for the Registry participant or entities related to the Registry participant (e.g., parent company, affiliates) in the last three years? (in dollars and/or percentage of company revenue/gross)
 - g. Is the amount of work such that the contractor's credibility and lack of bias could be questioned or challenged?
7. Certification Value (\$)
- a. What is the monetary value of the certification?
8. Geographic Proximity
- a. Is the potential COI related to work performed at the same site, in California, the U.S. or outside the U.S.? (There are no geographical boundaries to potential COI. GHG-related services, even in another country, could represent a COI.)
9. Sensitivity/Visibility
- a. Are there any extenuating circumstances that would cause this work to be considered sensitive or highly visible (e.g., press coverage, special Congressional interest)?
10. Does your firm or related entities share any board members or senior management with the participant?
11. Please provide a list of names of the staff that may participate in certification activities. For these staff, are there any instances of personal or employee relationships or financial interests that may represent a potential COI?
12. Are there any other circumstances that could result in a conflict of interest?

LIMITATION OF LIABILITY

The certifier agrees that contracts for certification services that are entered into prior to written notification of a COI determination from the Energy Commission are done so at the certifier's own risk. Therefore, no claim shall be made against the State of California to recover contract costs whether certification is permitted or not based on the COI determination.

CONSEQUENCES OF VIOLATION

In the event that terms of the current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers are violated or are suspected of being violated, the Energy Commission, in consultation with the Registry, in its discretion, may disqualify a state-approved certifier.

EXHIBIT C

COST BID FORM

Invitation for Bid, 600-03-601
Green House Gas Emissions

Task	Name	Hourly Rate	2003/2004	2004/2005	2005/2006	Travel
Task 1						
Task 2						
Task 3						
Task 4						
Task 5						
Task 6						
Task 7						
TOTAL						

The above budget form is for cost bid purposes only. When preparing this budget, take into consideration the length of the contract and include any increases in charges. The rates bid become part of the final contract and shall not be changed during the term of the contract.

ATTACHMENT 1

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

CONTRACTOR STATUS FORM

Contractor's Name _____

County _____

Address _____

Federal Employer ID

Phone

FAX

STATUS OF CONTRACTOR PROPOSING TO DO BUSINESS

☐ Individual

☐ Limited Partnership

☐ General Partnership

☐ Corporation

☐ Other

INDIVIDUAL

If a sole proprietorship, state the true name of sole proprietor:

PARTNERSHIP

If a partnership, list each partner, including limited partners, stating their true name and their interest in the partnership:

CORPORATION

If a corporation, place and date of incorporation: _____

Date corporation was authorized by Sect. of State: _____

President: _____

Vice President: _____

Secretary: _____

Treasurer: _____

Agent for service of process and address if different from above:

OTHER

Explain:

SMALL BUSINESS PREFERENCE

Are you claiming preference as a small business?

☐ YES - Attach approval letter from Office of Small and Minority Business.

☐ NO

Date you filed for small business preference: _____ Your small business ID number: _____

NOTE: This form must be completed or your proposal may be rejected.

CERTIFICATION CLAUSES
Std. CCC 103

ATTACHMENT 2
IFB 600-03-601
CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following

has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)
4. UNION ORGANIZING: Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.
5. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
 - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.

Attachment 3
RFP 600-02-601
CUSTOMER REFERENCES

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
CONTRACTS OFFICE

CUSTOMER REFERENCES
Provide a minimum of 4 references, use additional pages as needed.

ATTACHMENT 4

Reference #1

Name of Organization	
Address	
Contact Name	
Contact Title	
Contact Phone Number	
Describe the services and products your firm provided to the organization.	

ATTACHMENT 4

STATE OF CALIFORNIA

STANDARD AGREEMENT

STD 213 (Rev 09/01)

REGISTRATION NUMBER

AGREEMENT NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

State Energy Resources Conservation and Development Commission

CONTRACTOR'S NAME

2. The term of this Agreement is:

3. The maximum amount of this Agreement is: \$

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work pages

Exhibit B – Budget Detail and Payment Provisions pages

Exhibit C* – General Terms and Conditions for Interagency Agreements page

Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) pages

Exhibit E – Additional Provisions page

Exhibit F – Contacts page

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.dgs.ca.gov/contracts

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

BY (Authorized Signature)

DATE SIGNED(Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

State Energy Resources Conservation and Development Commission

BY (Authorized Signature)

DATE SIGNED(Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

Cheryl Raedel, Contracts Office Manager

ADDRESS

1516 Nine Street, Sacramento, CA 95814

California Department of General
Services Use Only

☐ Exempt per:

ATTACHMENT 4

EXHIBIT A

SCOPE OF WORK

PURPOSE

Contractor agrees to provide to the State Energy Resources Conservation and Development Commission (Commission) the services as described herein:

Task 1 REPORTS

A. Progress Reports

The Contractor shall provide monthly progress reports which summarize all contract activities conducted by the Contractor including contract expenditures to date. The progress report is due to the Commission Contract Manager within 15 days after the end of the month and each progress report shall coincide with the invoice period. The Commission Contract Manager will specify the report format and the number of copies to be submitted.

B. Final Reports

Summary

At the conclusion of the contract, the Contractor shall provide a comprehensive final *administrative* report, and a brief summary of the report, to the Commission Contract Manager. The Contractor shall prepare a summary that includes a statement of the problem, methods or techniques to solve the problem, conclusions and any additional follow-up or ongoing recommendations. The summary shall be prepared in language easily understood by the public or laypersons with a limited technical background.

Abstract

The Contractor shall prepare a brief (200 words or less) factual abstract of the most significant information contained in the final report.

Final Technical Report

The contractor shall prepare a draft final report that includes Tasks 3 through Task 7. The final report shall consist of each separate report developed under Tasks 3 to 7. The final report shall be submitted in draft form to the Commission Contract Manager for review and approval. The final report shall include the technical paper and the full project reports. The contractor shall review recommendations for changes to the report with the Commission Contract Manager and incorporate the agreed-upon changes into the final version of the report. The Contractor shall meet with the Commission to present the findings, conclusions, and recommendations prior to the due date of the final technical report.

After approval of the final report by the Commission Contract Manager, the contractor shall deliver, six bound paper copies, and one unbound paper copy of the report to the Commission Contract Manager. The unbound copy shall be single sided and camera ready, with graphics that are readable after photocopying. The contractor shall deliver an electronic copy (CD ROM) of full study text in Microsoft Word™ (version 97) or PDF file (Adobe version 4.0).

- 1) **Meeting** - Contractor shall meet with the Commission Contract Manager to present the findings, conclusions, and recommendations. Both the final meeting and the Final Report must occur on or before the ending term of this Agreement.

ATTACHMENT 4

- 2) **Abstracts** - Contractor shall provide a brief (200 words or less) factual abstract of the most significant information contained in the report.
- 3) **Summary** - The summary shall include a statement of the problem, methods or techniques used to solve the problem, conclusions and any additional follow-up or ongoing recommendations. The summary shall be prepared in language and structure easily understood by members of the public who may have limited technical background.
- 4) **Format**--Final reports and summaries shall be prepared in the following manner:
 - ☐ Camera-ready originals, in black ink, which include originals of oversize material, and ten copies.
 - ☐ Illustrations and graphs sized to 8 1/2 x 11 page.
 - ☐ Contractor's name shall only appear on the cover and title page as follows:

California Energy Commission
Project Title
Contract Number
By (Contractor)

Deliverables and Due Dates:

Monthly Progress Reports

15th of each month
(following reporting period)
July 30, 2005
September 30, 2005

Draft Final
Final due

Task 2

Contractor shall....

Deliverable: List all deliverables

Due date: Month, day, year

EXHIBIT B
Budget Detail and Payment Provision

1. **INVOICING PROCEDURES:** Upon receipt and approval of an invoice, the State agrees to a monthly payment to the Contractor in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

Invoices shall include the Agreement Number and shall be submitted in duplicate.

California Energy Commission
Accounting Office, MS-2
1516 9th Street, First Floor
Sacramento, California 95814

2. **BUDGET CONTINGENCY CLAUSE:** It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the work identified in Exhibit A, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability occurring to the State, or offer an Agreement Amendment to Contractor to reflect the reduced amount.

Funding for fiscal years 2003-04, 2004-05 and 2005-06 are subject to the availability and approval of the Governor's 2003-04, 2004-05 and 2005-06 budget.

3. **TRAVEL AND PER DIEM RATES:** Contractor shall be reimbursed for travel and per diem expenses using the same rates provided to nonrepresented state employees. Contractor may obtain current rates from the Commission Contract Officer. Travel expenses in excess of the state rates cannot be reimbursed.

4. **PAYMENT TERMS:**

☐ *Monthly Flat Rate* ☐ *Quarterly Flat Rate* ☐ *One –Time Payment*
☒ *Itemized Monthly Invoice*
☐ *Advance Payment Not to Exceed \$*
☐ *Reimbursement/Revenue*
☐ *Other (Explain) See Payment Schedule*

5. **CONDITIONS:**

- 1) Payment shall be made monthly of services rendered upon receipt and approval of an invoice.
- 2) Payment shall be made to Contractor for an undisputed invoice. An undisputed invoice is an invoice submitted by the Contractor for which additional evidence is not required to determine its validity. Contractor will be notified via a Dispute Notification Form, within 15 working days of receipt of an invoice, if the State disputes the submitted invoice.

ATTACHMENT 4

- 3) Payment is due to Contractor 45 days from the date a properly submitted undisputed invoice is received by the State.
- 4) The State will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Commission pursuant to this Agreement. The State of California is exempt from Federal excise taxes.

4. **FISCAL RECORD KEEPING**

Contractor shall furnish detailed itemization of, and retain all records relating to, direct expenses reimbursed to Contractor, and to hours of employment on this Contract by any employee of Contractor for which the Commission is billed. Such records shall be maintained for a period of three years after final payment of this Contract.

ATTACHMENT 4

EXHIBIT C GENERAL TERMS AND CONDITIONS

PLEASE NOTE: This page will not be included with the final agreement. The General Terms and Conditions will be included in the agreement by reference to Internet site:
www.dgs.ca.gov/contracts

EXHIBIT D
Special Terms and Conditions

1. **CONTRACT MANAGEMENT:**

- A. Contractor may change Project Manager but the Commission reserves the right to approve any substitution of the Project Manager.
- B. The Commission may change the Contract Manager by notice given Contractor at any time signed by the Contract Officer.
- C. Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the Commission Contract Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.
- D. Contractor will not be permitted to utilize Commission personnel for the performance of services, which are the responsibility of Contractor unless the Commission Contract Manager previously agrees to such utilization in writing and an appropriate adjustment in price is made. No charge will be made to Contractor for the services of Commission employees while performing, coordinating or monitoring functions.

2. **STANDARD OF PERFORMANCE:** Contractor shall be responsible in the performance of Contractor's/subcontractor's work under this Agreement for exercising the degree of skill and care required by customarily accepted good professional practices and procedures. Any costs for failure to meet these standards, or otherwise defective services, which require reperformance, as directed by Commission Contract Manager or its designee, shall be borne in total by the Contractor/subcontractor and not the Commission. In the event the Contractor/subcontractor fails to perform in accordance with the above standard the following will apply: Nothing contained in this section is intended to limit any of the rights or remedies which the Commission may have under law.

- A. Contractor/subcontractor will reperform, at its own expense, any task, which was not performed to the reasonable satisfaction of the Commission Contract Manager. Any work reperformed pursuant to this paragraph shall be completed within the time limitations originally set forth for the specific task involved. Contractor/subcontractor shall work any overtime required to meet the deadline for the task at no additional cost to the Commission.
- B. The Commission shall provide a new schedule for the reperformance of any task pursuant to this paragraph in the event that reperformance of a task within the original time limitations is not feasible.
- C. If the Commission directs the Contractor not to reperform a task; the Commission Contract Manager and Contractor shall negotiate a reasonable settlement for satisfactory services rendered. No previous payment shall be considered a waiver of the Commission's right to reimbursement.

3. **PERFORMANCE EVALUATION:** Consistent with Public Contract Code Sections 10367 and 10369, the Commission shall, upon completion of this Agreement, prepare a performance evaluation of the Contractor. Upon filing an unsatisfactory evaluation with the Department of General Services, Office of Legal Services (DGS) the Commission shall notify and send a copy of the evaluation to the Contractor within 15 days. The Contractor shall have 30 days to prepare and send statements to the

**ATTACHMENT 4
EXHIBIT D**

Commission and the DGS defending his or her performance. The Contractor's statement shall be filed with the evaluation in the Commission's Contract file and with DGS for a period of 36 months and shall not be a public record.

4. **REPORTS:**

- A. **Progress and Final Reports:** Contractor shall prepare progress reports summarizing all activities conducted by Contractor to date on a schedule as provided in Exhibit A. At the conclusion of this Agreement, Contractor shall prepare a comprehensive Final Report, on a schedule as provided in Exhibit A. Both Progress and Final Reports shall be delivered to the Commission Contract Manager.
- B. **Title:** Contractor's name shall only appear on the cover and title page of reports as follows:
California Energy Commission
Project Title
Contractor Number
By (Contractor)
- C. **Ownership:** Each report shall become the property of the Commission.
- D. **Non-Disclosure:** Contractor will not disclose data or disseminate the contents of the final or any progress report without written permission of the Commission Contract Manager, except as provided in F, below. Permission to disclose information on one occasion or public hearings held by the Commission relating to the same shall not authorize Contractor to further disclose and disseminate the information on any other occasion. Contractor will not comment publicly to the press or any other media regarding its report, or Commission's actions on the same, except to Commission staff, Contractor's own personnel involved in the performance of this Contract, or at public hearing, or in response to questions from a legislative committee. Notwithstanding the foregoing, in the event any public statement is made by the Commission or any other party, based on information received from the Commission as to the role of Contractor or the content of any preliminary or final report, Contractor may, if it believes the statement to be incorrect, state publicly what it believes is correct.
- E. **Confidentiality**
No record which has been designated as confidential, or is the subject of a pending application of confidentiality, shall be disclosed by the Contractor, Contractor's employees or any tier of subcontractors, except as provided in 20 California Code of Regulations, Sections 2506 and 2507, unless disclosure is ordered by a court of competent jurisdiction (20 California Code of Regulations, Sections 2501, et seq.). At the election of the Contract Manager, Contractor, Contractor's employees and any subcontractor shall execute a "Confidentiality Agreement," supplied by the Commission Contract Manager or Contract Officer.
- Each subcontract shall contain provisions similar to the foregoing related to the confidentiality and nondisclosure of data.
- F. **Disclosure:** Ninety days after any document submitted by the contractor is deemed by the Contract Manager to be a part of the public records of the State, Contractor may, if it wishes to do so at its own expense, publish or utilize a report or written document but shall include the following legend:

**ATTACHMENT 4
EXHIBIT D**

“LEGAL NOTICE”

"This report was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. The Energy Commission, the State of California, its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this report; nor does any party represent that the use of this information will not infringe upon privately owned rights."

5. CONTRACT DATA, OWNERSHIP RIGHTS:

- A. "Data" as used in this Agreement means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research or experimental, developmental or engineering work, or be usable or be used to define a design or process, or to support a premise or conclusion asserted in any deliverable document required by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, data or information, etc. It may be in machine form, such as punched cards, magnetic tape or computer printouts, or may be retained in computer memory.
- B. "Deliverable data" is that data which, under the terms of this Agreement, is required to be delivered to the Commission and shall belong to the Commission.
- C. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Agreement, and which Contractor has reasonably demonstrated as being of a proprietary nature either by reason of copyright, patent or trade secret doctrines in full force and effect at the time when performance of this Contract is commenced. The title to "proprietary data" shall remain with the Contractor throughout the term of this Agreement and thereafter. The extent of the Commission access to, and the testimony available regarding, the proprietary data shall be limited to that reasonably necessary to demonstrate, in a scientific manner to the satisfaction of scientific persons, the validity of any premise, postulate or conclusion referred to or expressed in any deliverable for this Agreement.
- D. "Generated data" is that data, which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Contract. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Contract at the Commission's expense, together with complete documentation thereof, shall be treated in the same manner as "generated data." "Generated data" shall be the property of the Commission, unless and only to the extent that it is specifically provided otherwise in this Agreement.
- E. As to "generated data" which is reserved to Contractor by the express terms hereof, and as to any pre-existing or "proprietary data" which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced as evidence in a court of law at Contractor's own expense for a period of not less than three years after receipt by the Commission of the Final Report herein.

ATTACHMENT 4
EXHIBIT D

- F. Before the expiration of the three years, and before changing the form of or destroying any data, Contractor shall notify the Commission of any contemplated action and the Commission may, within thirty (30) days after notification, determine whether it desires the data to be preserved. If the Commission so elects, the expense of further preserving data shall be paid for by the Commission. Contractor agrees that the Commission may at its own expense, have reasonable access to data throughout the time during which data is preserved. Contractor agrees to use its best efforts to furnish competent witnesses or to identify competent witnesses to testify in any court of law regarding data.

6. **RIGHTS OF PARTIES IN COPYRIGHTS, PHYSICAL WORKS OF ART AND FINE ART**

The Contractor, by signing this Contract, expressly grants to the Commission for all copyrightable material, work of art and original work of authorship first produced, composed or authored in the performance of this Contract a royalty-free, paid-up, non-exclusive, irrevocable, nontransferable, worldwide license to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art, and to authorize others to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art.

Contractor, by signing this Contract, expressly conveys to the Commission all ownership of the physical works of art and fine art produced under this Contract. Contractor agrees it does not reserve any rights to the physical works of art and fine art produced under this Contract.

Contractor shall obtain these same rights for the Commission from all subcontractors and others who produce copyrightable material, works of art, or works of fine art under this Contract. Contractor shall incorporate these paragraphs, modified appropriately, into its agreements with subcontractors. No subcontract shall be entered into without these rights being assured to the Commission from the subcontractor.

7. **PUBLIC HEARINGS:** If public hearings on the scope of work are held during the period of the Contract, Contractor will make available to testify the personnel assigned to this Agreement. The Commission will reimburse Contractor for compensation and travel of the personnel at the Contract rates for the testimony which the Commission requests.
8. **DISPUTES:** In the event of a Contract dispute or grievance between Contractor and the Commission, both parties shall follow the following two-step procedure. Contractor shall continue with the responsibilities under this contract during any dispute.

A. Commission Dispute Resolution

The Contractor shall first discuss the problem informally with the Commission Contract Manager. If the problem cannot be resolved at this stage, the Contractor must direct the grievance together with any evidence, in writing, to the Commission Contracts Officer. The grievance must state the issues in the dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Commission Contracts Officer and the Program Office Manager must make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Contracts Officer shall respond in writing to the Contractor, indicating a decision and explanation for the decision. Should the Contractor disagree with the Contracts Officer decision, the Contractor may appeal to the second level.

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The Contractor must prepare a letter indicating why the Contracts Officer's decision is unacceptable, attaching to it the Contractor's original statement of the dispute with supporting documents, along with a copy of the Contracts Officer's response. This letter shall be sent to the Commission's Executive Director within ten (10) working days from receipt of the Contracts Officer's decision. The Executive Director or designee shall meet with the Contractor to review the issues raised. A written decision signed by the Executive Director or designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter. The Executive Director may inform the Commission of the decision at a Commission business meeting. Should the Contractor disagree with the Executive Director's decision, the Contractor may appeal to the Commission at a regularly scheduled business meeting. Contractor will be provided with the current procedures for placing the appeal on a Commission Business Meeting Agenda.

B. Binding Arbitration

Should the Commission's Dispute Resolution procedure above fail to resolve a contract dispute or grievance to the satisfaction of the Contractor, the Contractor and Commission mutually may elect to have the dispute or grievance resolved through binding arbitration. If one party does not agree, the matter shall not be submitted to arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. If arbitration is mutually decided by the parties, arbitration is in lieu of any court action and the decision rendered by the arbitrator shall be final (not appealable to a court through the civil process). However, judgment may be entered upon the arbitrator's decision and is enforceable in accordance with the applicable law in any court having jurisdiction over this Agreement. The demand for arbitration shall be made no later than six (6) months after the date of the contract's termination, despite when the dispute or grievance arose, and despite the applicable statute of limitations for a suit based on the dispute or grievance. If the parties do not mutually agree to arbitration, the parties agree that the sole forum to resolve a dispute is state court.

The cost of arbitration shall be borne by the parties as follows:

- 1) The AAA's administrative fees shall be borne equally by the parties;
- 2) The expense of a stenographer shall be borne by the party requesting a stenographic record;
- 3) Witness expenses for either side shall be paid by the party producing the witness;
- 4) Each party shall bear the cost of its own travel expenses;
- 5) All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of Contract funds. Both parties must agree, in writing, to utilize contract funds to pay for arbitration costs.

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9. **TERMINATION:**

The parties agree that because the Commission is a state entity and contracts on behalf of all Californian rate payers, it is necessary for the Commission to be able to terminate, at once, upon the default of Contractors and to proceed with the work required under the Agreement in any manner the Commission deems proper. Contractor specifically acknowledges that the unilateral termination of the Agreement by the Commission under the terms set forth below is an essential term of the Agreement, without which the Commission would not enter into the Agreement. Contractor further agrees that upon any of the events triggering the unilateral termination the Agreement by the Commission, the Commission has the sole right to terminate the Agreement, and it would constitute bad faith of the Contractor to interfere with the immediate termination of the Agreement by the Commission.

This Agreement may be terminated for any reason set forth below.

A. With Cause

In the event of any breach by the Contractor of the conditions set forth in this Agreement, the Commission may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the Contractor. In such event, Commission shall pay Contractor only the reasonable value of the services theretofore rendered by Contractor, as may be agreed upon by the parties or determined by a court of law, but not in excess of the contract maximum payable. "Cause" includes without limitation:

- 1) Failure to perform or breach of any of the terms or covenants at the time and in the manner provided in this Agreement; or
- 2) Contractor is not able to pay its debts as they become due and/or Contractor is in default of an obligation that impacts his ability to perform under this Agreement; or
- 3) It is determined after notice and hearing by the Commission or the Executive Director that gratuities were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Commission, with a view toward securing an Agreement or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of the Agreement; or
- 4) Significant change in Commission policy such that the work or product being funded would not be supported by the Commission; or
- 5) Reorganization to a business entity unsatisfactory to the Commission; or
- 6) The retention or hiring of subcontractors, or the replacement or addition of personnel that fail to perform to the standards and requirements of this Agreement.

B. Without Cause

The Commission may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the Contractor. In such event, the Contractor agrees to use all reasonable efforts to mitigate the Contractor's expenses and obligations hereunder. Also, in such event, the Commission shall pay the Contractor for all satisfactory services rendered and expenses incurred within 30 days after notice of termination which could not by reasonable efforts of the Contractor have been avoided, but not in excess of the maximum payable under this Agreement.

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10. **WAIVER:** No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of the Commission to enforce at any time any of the provisions of this Contract, or to require at any time performance by Contractor of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Contract or any part of it or the right of the Commission to thereafter enforce each and every such provision.
11. **CAPTIONS:** The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.
12. **PRIOR DEALINGS, CUSTOM OR TRADE USAGE:** In no event shall any prior course of dealing, custom or trade usage modify, alter, or supplement any of these terms.
13. **NOTICE:** Notice to either party may be given using the following delivery methods, certified mail, Federal Express, United Parcel Service, or personal delivery, providing evidence of receipt, to the respective parties identified on page one of this Agreement.
- Delivery by fax or e-mail is not considered notice for the purpose of this Agreement. Notice shall be effective when received, unless a legal holiday for the State commences on the date of the attempted delivery. In which case, the effective date shall be postponed 24 hours, or whenever the next business day occurs.
14. **STOP WORK:** The Commission Contract Officer may, at any time, by written notice to Contractor, require Contractor to stop all or any part of the work tasks in this Agreement. Stop Work Orders may be issued for reasons such as a project exceeding budget, standard of performance, out of scope work, delay in project schedule, misrepresentations and the like.
- A. Compliance Upon receipt of such stop work order, Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.
- B. Equitable Adjustment An equitable adjustment shall be made by Commission based upon a written request by Contractor for an equitable adjustment. Such adjustment request must be made by Contractor within thirty (30) days from the date of receipt of the stop work notice.
- C. Revoking a Stop Work Order Contractor shall resume the stopped work only upon receipt of written instructions from the Commission Contract Officer canceling the stop work order.
15. **INTERPRETATION OF TERMS:** Any inconsistency between the terms of any exhibits shall be resolved in favor of Exhibit A, Scope of Work and Exhibit E, Additional Provisions.
16. **CONTRACTOR DUTIES, OBLIGATIONS AND RIGHTS:** The Contractor under the performance of this Agreement has been fully informed of its duties, obligations and rights under Public Contract Code, Section 10381, and any additional Contractor's rights and obligations which should be included.

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ADDITIONAL PROVISIONS

1. **CONFIDENTIALITY:** The Contractor has not identified any confidential or proprietary items to be delivered under this Agreement.

In the event there is a disagreement regarding confidential treatment of items to be delivered under the Agreement, the parties shall use the “Disputes” clause. Those items to be considered as confidential shall be subject to the Commission Executive Director’s determination of confidentiality. If the Contractor wishes to appeal the Executive Director’s determination, the appeal shall be made to the full Commission. If the Contractor disagrees with this determination, the Contractor may seek judicial review as per Title 20 CCR 2506, et seq.

A. Public and Confidential Deliverables

All deliverables including, but not limited to, progress reports, task deliverables and the Final Report shall not contain confidential information except when the Commission Contract Manager and the Contractor deem it necessary to include confidential information in a deliverable. In such event, the Contractor shall prepare the deliverable in two separate volumes, one for public distribution and one to be maintained in the Commission’s confidential records located in the Contract’s Office. Only those items specifically listed here or in a subsequent determination of confidentiality qualify as confidential deliverables.

B. Identifying and Submitting Confidential Information

All confidential information submitted by the Contractor shall be marked “Confidential” on each page of document containing the confidential information and presented in a sealed package to the Commission Contract Officer.

C. Future Confidential Information

The Contractor and the Commission agree that during this Agreement, it is possible that the Contractor may develop additional data or information that the Contractor considers to be protectable as confidential information. The Commission Contract Manager shall provide Contractor with a copy of the Commission’s Application for Confidential Designation. Contractor must list all items and information along with justification for confidentiality and submit the application to the Commission Contract Manager. The Commission Executive Director makes the final determination of confidentiality. Such subsequent determinations will be added to this Exhibit.

2. **PROPOSAL INTERPRETATION:** This project shall be conducted in accordance with the terms and conditions of Commission Invitation for Bid, number 600-03-601, titled, Green House Gas Emissions, Contractor’s proposal dated _____ and this Agreement. The Contractor’s proposal is not attached, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the Contractor’s proposal, this Agreement shall be considered controlling.

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3. **CONFLICT OF INTEREST:**

- A. Contractor agrees to continuously review new and upcoming projects in which members of the Contractor team may be involved for potential conflicts of interest. Contractor shall report its findings in its progress report.
- B. Contractor shall submit a completed Fair Political Practices Commission Form 700, "Statement of Economic Interests" for each consultant directed by the Commission to file a statement.
- C. No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. This does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

D. 1) Bidding Activities:

Contractor and each subcontractor shall agree not to bid as a project developer or independent consultant on any of the following:

- a) An RFP or project in which Contractor or any subcontractor has provided assistance under this Contract.
- b) On every related RFP or subject that currently receives assistance or receives assistance during this Contract under _____ *[fill in program]* or intends to apply for such assistance under any of the above programs and makes that fact known to Contractor or Contractor team members.

2) Reviewing, Evaluation & Assistance Activities

Contractor and each team member shall be disqualified from participating in the review, evaluation, or assistance of:

- a) Any project seeking assistance under the programs listed above for which Contractor has become a project developer or independent consultant in a situation not covered by clause D.1; or,
- b) Any project for which, within twelve (12) months prior to the start date of this Contract or at any time during this Contract, it has provided assistance under a separate contract to the project proponent that is seeking assistance for the same project under any of the above programs.

3) Follow- on Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant that contracts with a state agency to develop a feasibility study or provide formal recommendations for the

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acquisition of EDP products or services is precluded from contracting for any work recommended in the feasibility study or the formal recommendation.

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EXHIBIT F CONTACT PERSONS

Commission Contract Manager: NAME, MS-XX California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone (916) NUMBER e-mail: NAME@energy.state.ca.us	Contractor Project Manager: (Name) (Contractor Name) Address Phone: Fax: e-mail
Commission Contract Officer: Elizabeth Stone, MS-18 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: (916) 654-5125 Fax:(916) 654-4423 e-mail: estone@energy.state.ca.us	Contractor Contract Administrator: (Name) (Contractor Name) Address Phone: Fax: e-mail
Deliver confidential deliverables to this location only.	
Invoices, Progress Reports and Non-Confidential Deliverables to: Accounting Office, MS-2 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: 916-654-4401	
Legal Notices: Cheryl Raedel, MS-18 Manager, Contracts Office California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: 916-654-4392 Fax: 916-654-4423 e-mail: craedel@energy.state.ca.us	(contractor legal person)